

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

THEODORE SETTLES,

Petitioner,

Case Number: 06-10496

v.

HONORABLE AVERN COHN

BLAINE LAFLER,

Respondent.

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**ORDER ADOPTING REPORT AND RECOMMENDATION**  
**AND**  
**DENYING APPLICATION FOR WRIT OF HABEAS CORPUS**  
**AND**  
**DENYING PETITIONER'S REQUEST FOR RECONSIDERATION OF THE**  
**MAGISTRATE JUDGE'S ORDER DENYING PETITIONER'S MOTIONS**  
**AND**  
**DISMISSING CASE**

I.

This is a habeas case under 28 U.S.C. § 2254. Petitioner Theodore Settles, (Petitioner) is a state prisoner convicted of two counts of first degree criminal sexual conduct (CSC) and three counts of second degree CSC for which he is serving a sentence of 10-20 years on the first degree CSC convictions and 5-15 years on the second degree CSC convictions. Petitioner filed a pro se petition for a writ of habeas corpus claiming that he is incarcerated in violation of his constitutional rights. He specifically claims that (1) he was deprived his right to counsel when the trial court failed to appoint substitute counsel to represent him, (2) he was deprived of the effective assistance of trial counsel because counsel failed to (a) properly conduct jury selection,

(b) object to the late disclosure of discovery, (c) challenge the admission of the DNA evidence, (d) seek a probable cause hearing, (e) seek a defense expert, (f) object to irrelevant evidence, and (g) seek lesser included offense instructions.

The matter was referred to a magistrate judge for all proceedings, including preparation of a report and recommendation (MJRR). Petitioner filed several motions before the magistrate judge, including (1) a motion for additional Rule 6 materials, (2) a motion to amend, and (3) a motion for discovery. On January 29, 2008, the magistrate judge issued an order denying the motions. Also on that date, the magistrate judge issued an MJRR in which he considered Petitioner's claims on the merits and recommends that the petition be denied.

## II.

Before the Court is Petitioner's paper styled "Petitioner's Response Motion for a New Trial," which the Court construes as objections to the MJRR and as a request for reconsideration of the denial of his motions.

Having reviewed the MJRR de novo in light of Petitioner's objections, the Court finds that the magistrate judge did not err in recommending that the petition be denied. The magistrate judge, in a thorough-going analysis, carefully and fully explained why Petitioner is not entitled to habeas relief on any of his claims. All of Petitioner's objections were essentially addressed and rejected by the magistrate judge in the MJRR.

As to Petitioner's request to reconsider the denial of his motions, the Court is satisfied that the magistrate judge did not err in denying these motions. As explained in the order, Petitioner has not shown that he is entitled to any additional discovery or that

there are ground for allowing him to amend the petition.

III.

Accordingly, the findings and conclusions of the magistrate judge are ADOPTED as the findings and conclusions of the Court. Petitioner's application for writ of habeas corpus is DENIED. Petitioner's request for reconsideration of the order denying his motions is DENIED. This case is DISMISSED.

SO ORDERED.

s/Avern Cohn  
AVERN COHN  
UNITED STATES DISTRICT JUDGE

Dated: February 21, 2008

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record and Theodore Settles, 454484, St. Louis Correctional Facility, 8585 N. Croswell Road, St. Louis, MI 48880 on this date, February 21, 2008, by electronic and/or ordinary mail.

s/Julie Owens  
Case Manager, (313) 234-5160